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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
08/945,667	01/28/98	HORROBIN	D 34237/170943
		EXAMINER	
023370 KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET SUITE 2800 ATLANTA GA 30309		HM22/0331	HIGH PAPER NUMBER
			15
		1626	
		DATE MAILED:	03/31/00

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

#### OFFICE ACTION SUMMARY

- Responsive to communication(s) filed on February 23, 2000
- This action is FINAL.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

- Claim(s) 57, 29, 30, 36 TO 38, 56 TO 95 is/are pending in the application.
- Of the above, claim(s) 57 TO 92 is/are withdrawn from consideration.
- Claim(s) \_\_\_\_\_ is/are allowed.
- Claim(s) 27, 29, 30, 36 TO 38, 56, AND 93 TO 95 is/are rejected.
- Claim(s) \_\_\_\_\_ is/are objected to.
- Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- All  Some\*  None of the CERTIFIED copies of the priority documents have been
- received.
- received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- Notice of Reference Cited, PTO-892
- Information Disclosure Statement(s), PTO-1449, Paper No(s). 12
- Interview Summary, PTO-413
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Notice of Informal Patent Application, PTO-152

-SEE OFFICE ACTION ON THE FOLLOWING PAGES-

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Claims 57 to 92 stand withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention, the requirement having been traversed in Paper No. 9.

Claim 30 is rejected under 35 USC 112, second paragraph, for failing to properly define the invention. The expressions “compound---which comprises”, other difunctional group” remain criticized for the reasons of record. The use of comprises to claim compounds is improper.

Claims 27,29,36 to 38,56 and 93 to 95 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent 0,161,114, of record, for the reasons given in the last Office action in rejecting claims 27 to 29,32,33,36 to 38, 93 and 94 over prior art on this same group of rejection. Please note Example 1, Page 4, Figures 1 to 6, Table 5 of the reference. No showing of any unobvious or unexpected properties has been forthcoming. The utility recited for the prior art compounds does not have to be that disclosed for the claimed compounds, all that is necessary for a reference to be a good viable reference is that the reference disclose compounds which would render the claimed compounds structurally obvious and have viable utility. Such is the case with the reference relied on. It is now incumbent upon applicants to show unexpected in difference in a property not different properties to overcome the reference.

No claim is allowed.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

This application contains claims 57 to 92 drawn to an invention nonelected with traverse in Paper No. 9. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MEP. § 821.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Floyd D. Higel whose telephone number is (703) 308-4530. The examiner can normally be reached on Tuesday to Friday from 8:00am to 5:30pm.

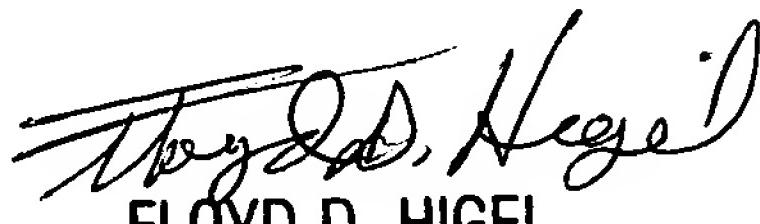
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane, can be reached on (703) 308-4537. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7921.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Higel sg

March 28, 2000

  
FLOYD D. HIGEL  
PATENT PRIMARY EXAMINER.  
ART UNIT 123